

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR

HOUSE BILL NO. 1323

96TH GENERAL ASSEMBLY

Reported from the Committee on Health, Mental Health, Seniors and Families, May 10, 2012, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

5196S.09C

AN ACT

To repeal sections 208.044, 210.135, 210.145, 210.211, and 210.245, RSMo, and to enact in lieu thereof seven new sections relating to the provision of child care services, with a penalty provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 208.044, 210.135, 210.145, 210.211, and 210.245, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 208.044, 208.053, 210.135, 210.145, 210.211, 210.245, and 544.456, to read as follows:

208.044. 1. The **children's** division [of family services] shall provide child day care services to any person who meets the qualifications set forth at sections 301 and 302 of the Family Support Act of 1988 (P.L. 100-485).

2. The division [of family services] shall purchase the child day care services required by this section by making payments directly to any providers of day care services licensed pursuant to chapter 210 or to providers of day care services who are not required by chapter 210 to be licensed because they are providing care to relative children or no more than four children.

3. When a person who has been eligible and receiving day care services under this section becomes ineligible due to the end of the twelve-month period of transitional day care, as defined in section 208.400, such person may receive day care services from the division [of family services] if otherwise eligible for such services. [Until October 1, 1992, participants eligible for income eligible day care services, as defined by the division of family services, will continue to receive

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 such services in the same proportion as that provided in fiscal year 1989, subject
16 to appropriation.]

208.053. 1. The provisions of this section shall be known as the
2 "Low-Wage Trap Elimination Act". In order to more effectively
3 transition persons receiving state-funded child care subsidy benefits
4 under this chapter, the children's division, in conjunction with the
5 department of revenue, shall, subject to appropriations, by January 1,
6 2013, implement a pilot program in at least one rural county and in at
7 least one urban child care center that serves at least three hundred
8 families, to be called the "Hand-up Program", to allow willing recipients
9 who wish to participate in the program to continue to receive such
10 child care subsidy benefits while sharing in the cost of such benefits
11 through the payment of a premium, as follows:

12 (1) For purposes of this section, "full child care benefits" shall be
13 the full benefits awarded to a recipient based on the income eligibility
14 amount established by the division through the annual appropriations
15 process as of August 28, 2012, to qualify for the benefits and shall not
16 include the transitional child care benefits that are awarded to
17 recipients whose income surpasses the eligibility level for full benefits
18 to continue. The hand-up program shall be voluntary and shall be
19 designed such that a participating recipient will not be faced with a
20 sudden loss of child care benefits should the recipient's income rise
21 above the maximum allowable monthly income for persons to receive
22 full child care benefits as of August 28, 2012. In such instance, the
23 recipient shall be permitted to continue to receive such benefits if the
24 recipient pays a premium, to be paid via a payroll deduction if possible,
25 to be applied only to that portion of the recipient's income above such
26 maximum allowable monthly income for the receipt of full child care
27 benefits as follows:

28 (a) The premium shall be forty-four percent of the recipient's
29 excess adjusted gross income over the maximum allowable monthly
30 income for the applicable family size for the receipt of child care
31 benefits;

32 (b) The premium shall be paid on a monthly basis by the
33 participating recipient, or may be paid on a different periodic basis if
34 through a payroll deduction consistent with the payroll period of the
35 person's employer;

36 (c) The division shall develop a payroll deduction program in
37 conjunction with the department of revenue, and shall promulgate
38 rules for the payment of premiums, through such payroll deduction
39 program or through an alternate method to be determined by the
40 division, owed under the hand-up program; and

41 (d) Participating recipients who fail to pay the premium owed
42 shall be removed permanently from the program after sixty days of
43 non-payment;

44 (2) Subject to the receipt of federal waivers if necessary,
45 participating recipients shall be eligible to receive child care service
46 benefits at income levels all the way up to the level at which a person's
47 premium equals the value of the child care service benefits received by
48 the recipient;

49 (3) Only those recipients who currently receive full child care
50 benefits as of joining the program and who had been receiving full
51 child care service benefits continuously since on or before August 28,
52 2012, shall be eligible to participate in the program. Only those
53 recipients who agree to the terms of the hand-up program during a
54 ninety-day sign-up period shall be allowed to participate in the
55 program, pursuant to rules to be promulgated by the division; and

56 (4) A participating recipient shall be allowed to opt out of the
57 program at any time, but such person shall not be allowed to
58 participate in the program a second time.

59 2. The division shall track the number of participants in the
60 hand-up program, premiums and taxes paid by each participant in the
61 program and the aggregate of such premiums and taxes, as well as the
62 aggregate of those taxes paid on income exceeding the maximum
63 allowable income for receiving full child care benefits outside the hand-
64 up program, and shall issue an annual report to the general assembly
65 by January 1, 2014, and annually on January first thereafter, detailing
66 the effectiveness of the pilot program in encouraging recipients to
67 increase their income levels above the income maximum applicable to
68 each recipient. The report shall also detail the costs of administration
69 and the increased amount of state income tax paid and premiums paid
70 as a result of the program, as well as an analysis of whether the pilot
71 program could be expanded to include other types of benefits including
72 but not limited to food stamps, temporary assistance for needy families,

73 low income heating assistance, women, infants and children
74 supplemental nutrition program, the state children's health insurance
75 program, and MO HealthNet benefits.

76 3. The division shall pursue all necessary waivers from the
77 federal government to implement the hand-up program with the goal
78 of allowing participating recipients to receive child care service
79 benefits at income levels all the way up to the level at which a person's
80 premium equals the value of the child care service benefits received by
81 the recipient. If the division is unable to obtain such waivers, the
82 division shall implement the program to the degree possible without
83 such waivers.

84 4. (1) There is hereby created in the state treasury the "Hand-Up
85 Program Premium Fund", which shall consist of premiums collected
86 under this section. The state treasurer shall be custodian of the fund.
87 In accordance with sections 30.170 and 30.180, the state treasurer may
88 approve disbursements. The state treasurer shall invest moneys in the
89 fund in the same manner as other funds are invested. Any interest and
90 moneys earned on such investments shall be credited to the
91 fund. Notwithstanding the provisions of section 33.080, to the contrary,
92 any moneys remaining in the fund at the end of the biennium shall not
93 revert to the credit of the general revenue fund.

94 (2) All premiums received under the program shall be deposited
95 in the fund, out of which the cost of administering the hand-up
96 program shall be paid, as well as the necessary payments to the federal
97 government and to the state general revenue fund. Child care benefits
98 provided under the hand-up program shall continue to be paid for as
99 under the existing state child care assistance program.

100 5. After the first year of the program, or sooner if feasible, the
101 cost of administering the program shall be paid out of the premiums
102 received. Any premiums collected exceeding the cost of administering
103 the program shall, if required by federal law, be shared with the
104 federal government and the state general revenue fund in the same
105 proportion that the federal government shares in the cost of funding
106 the child care assistance program with the state.

107 6. Any rule or portion of a rule, as that term is defined in section
108 536.010 that is created under the authority delegated under this section
109 shall become effective only if it complies with and is subject to all of

110 the provisions of chapter 536, and, if applicable, section 536.028. This
111 section and chapter 536 are nonseverable and if any of the powers
112 vested with the general assembly pursuant to chapter 536, to review, to
113 delay the effective date, or to disapprove and annul a rule are
114 subsequently held unconstitutional, then the grant of rulemaking
115 authority and any rule proposed or adopted after August 28, 2012, shall
116 be invalid and void.

117 7. Pursuant to section 23.253 of the Missouri sunset act:

118 (1) The provisions of the new program authorized under this
119 section shall sunset automatically three years after the effective date
120 of this section unless reauthorized by an act of the general assembly;
121 and

122 (2) If such program is reauthorized, the program authorized
123 under this section shall sunset automatically six years after the
124 effective date of the reauthorization of this section; and

125 (3) This section shall terminate on September first of the
126 calendar year immediately following the calendar year in which the
127 program authorized under this section is sunset.

210.135. 1. Any person, official, or institution complying with the
2 provisions of sections 210.110 to 210.165 in the making of a report, the taking of
3 color photographs, or the making of radiologic examinations pursuant to sections
4 210.110 to 210.165, or both such taking of color photographs and making of
5 radiologic examinations, or the removal or retaining a child pursuant to sections
6 210.110 to 210.165, or in cooperating with the division, or any other law
7 enforcement agency, juvenile office, court, or child-protective service agency of
8 this or any other state, in any of the activities pursuant to sections 210.110 to
9 210.165, or any other allegation of child abuse, neglect or assault, pursuant to
10 sections 568.045 to 568.060, shall have immunity from any liability, civil or
11 criminal, that otherwise might result by reason of such actions. Provided,
12 however, any person, official or institution intentionally filing a false report,
13 acting in bad faith, or with ill intent, shall not have immunity from any liability,
14 civil or criminal. Any such person, official, or institution shall have the same
15 immunity with respect to participation in any judicial proceeding resulting from
16 the report.

17 2. Any person, who is not a school district employee, who makes a report
18 to any employee of the school district of child abuse by a school employee shall

19 have immunity from any liability, civil or criminal, that otherwise might result
20 because of such report. Provided, however, that any such person who makes a
21 false report, knowing that the report is false, or who acts in bad faith or with ill
22 intent in making such report shall not have immunity from any liability, civil or
23 criminal. Any such person shall have the same immunity with respect to
24 participation in any judicial proceeding resulting from the report.

25 **3. In a case involving the death or serious injury of a child after**
26 **a report has been made under sections 210.109 to 210.165, the division**
27 **shall conduct a preliminary evaluation in order to determine whether**
28 **a review of the ability of the circuit manager or case worker or workers**
29 **to perform their duties competently is necessary. The preliminary**
30 **evaluation shall examine:**

31 **(1) The hotline worker or workers who took any reports related**
32 **to such case;**

33 **(2) The division case worker or workers assigned to the**
34 **investigation of such report; and**

35 **(3) The circuit manager assigned to the county where the report**
36 **was investigated.**

37 **Any preliminary evaluation shall be completed no later than three days**
38 **after the child's death. If the division determines a review and**
39 **assessment is necessary, it shall be completed no later than three days**
40 **after the child's death.**

210.145. 1. The division shall develop protocols which give priority to:

2 (1) Ensuring the well-being and safety of the child in instances where
3 child abuse or neglect has been alleged;

4 (2) Promoting the preservation and reunification of children and families
5 consistent with state and federal law;

6 (3) Providing due process for those accused of child abuse or neglect; and

7 (4) Maintaining an information system operating at all times, capable of
8 receiving and maintaining reports. This information system shall have the ability
9 to receive reports over a single, statewide toll-free number. Such information
10 system shall maintain the results of all investigations, family assessments and
11 services, and other relevant information.

12 2. The division shall utilize structured decision-making protocols for
13 classification purposes of all child abuse and neglect reports. The protocols
14 developed by the division shall give priority to ensuring the well-being and safety

15 of the child. All child abuse and neglect reports shall be initiated within
16 twenty-four hours and shall be classified based upon the reported risk and injury
17 to the child. The division shall promulgate rules regarding the structured
18 decision-making protocols to be utilized for all child abuse and neglect reports.

19 3. Upon receipt of a report, the division shall determine if the report
20 merits investigation, including reports which if true would constitute a suspected
21 violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or
22 565.050 if the victim is a child less than eighteen years of age, section 566.030 or
23 566.060 if the victim is a child less than eighteen years of age, or other crimes
24 under chapter 566 if the victim is a child less than eighteen years of age and the
25 perpetrator is twenty-one years of age or older, section 567.050 if the victim is a
26 child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050,
27 568.060, 568.080, or 568.090, section 573.025, 573.035, 573.037, or 573.040, or an
28 attempt to commit any such crimes. The division shall immediately communicate
29 all reports that merit investigation to its appropriate local office and any relevant
30 information as may be contained in the information system. The local division
31 staff shall determine, through the use of protocols developed by the division,
32 whether an investigation or the family assessment and services approach should
33 be used to respond to the allegation. The protocols developed by the division
34 shall give priority to ensuring the well-being and safety of the child.

35 4. **When the child abuse and neglect hotline receives three or**
36 **more calls, within a seventy-two hour period, from one or more**
37 **individuals concerning the same child, the division shall conduct a**
38 **review to determine whether the calls meet the criteria and statutory**
39 **definition for a child abuse and neglect report to be accepted. In**
40 **conducting the review, the division shall contact the hotline caller or**
41 **callers in order to collect information to determine whether the calls**
42 **meet the criteria for harassment.**

43 5. The local office shall contact the appropriate law enforcement agency
44 immediately upon receipt of a report which division personnel determine merits
45 an investigation and provide such agency with a detailed description of the report
46 received. In such cases the local division office shall request the assistance of the
47 local law enforcement agency in all aspects of the investigation of the
48 complaint. The appropriate law enforcement agency shall either assist the
49 division in the investigation or provide the division, within twenty-four hours, an
50 explanation in writing detailing the reasons why it is unable to assist.

51 **[5.] 6.** The local office of the division shall cause an investigation or
52 family assessment and services approach to be initiated in accordance with the
53 protocols established in subsection 2 of this section, except in cases where the sole
54 basis for the report is educational neglect. If the report indicates that
55 educational neglect is the only complaint and there is no suspicion of other
56 neglect or abuse, the investigation shall be initiated within seventy-two hours of
57 receipt of the report. If the report indicates the child is in danger of serious
58 physical harm or threat to life, an investigation shall include direct observation
59 of the subject child within twenty-four hours of the receipt of the report. Local
60 law enforcement shall take all necessary steps to facilitate such direct
61 observation. **Callers to the child abuse and neglect hotline shall be**
62 **instructed by the division's hotline to call 911 in instances where the**
63 **child may be in immediate danger.** If the parents of the child are not the
64 alleged abusers, a parent of the child must be notified prior to the child being
65 interviewed by the division. **No person responding to or investigating a**
66 **child abuse and neglect report shall call prior to a home visit or leave**
67 **any documentation of any attempted visit, such as business cards,**
68 **pamphlets, or other similar identifying information if he or she has a**
69 **reasonable basis to believe the following factors are present:**

70 **(1) (a) No person is present in the home at the time of the home**
71 **visit; and**

72 **(b) The alleged perpetrator resides in the home or the physical**
73 **safety of the child may be compromised if the alleged perpetrator**
74 **becomes aware of the attempted visit;**

75 **(2) The alleged perpetrator will be alerted regarding the**
76 **attempted visit; or**

77 **(3) The family has a history of domestic violence or fleeing the**
78 **community.**

79 **If the alleged perpetrator is present during a visit by the person**
80 **responding to or investigating the report, such person shall provide**
81 **written material to the alleged perpetrator informing him or her of his**
82 **or her rights regarding such visit, including but not limited to the right**
83 **to contact an attorney. The alleged perpetrator shall be given a**
84 **reasonable amount of time to read such written material or have such**
85 **material read to him or her by the case worker before the visit**
86 **commences, but in no event shall such time exceed five minutes; except**

87 **that, such requirement to provide written material and reasonable time**
88 **to reach such material shall not apply in cases where the child faces an**
89 **immediate threat or danger, or the person responding to investigating**
90 **the report is or feels threatened or in danger of physical harm.** If the
91 abuse is alleged to have occurred in a school or child-care facility the division
92 shall not meet with the child in any school building or child-care facility building
93 where abuse of such child is alleged to have occurred. When the child is reported
94 absent from the residence, the location and the well-being of the child shall be
95 verified. For purposes of this subsection, child-care facility shall have the same
96 meaning as such term is defined in section 210.201.

97 [6.] 7. The director of the division shall name at least one chief
98 investigator for each local division office, who shall direct the division response
99 on any case involving a second or subsequent incident regarding the same subject
100 child or perpetrator. The duties of a chief investigator shall include verification
101 of direct observation of the subject child by the division and shall ensure
102 information regarding the status of an investigation is provided to the public
103 school district liaison. The public school district liaison shall develop protocol in
104 conjunction with the chief investigator to ensure information regarding an
105 investigation is shared with appropriate school personnel. The superintendent
106 of each school district shall designate a specific person or persons to act as the
107 public school district liaison. Should the subject child attend a nonpublic school
108 the chief investigator shall notify the school principal of the investigation. Upon
109 notification of an investigation, all information received by the public school
110 district liaison or the school shall be subject to the provisions of the federal
111 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g,
112 and federal rule 34 C.F.R., Part 99.

113 [7.] 8. The investigation shall include but not be limited to the nature,
114 extent, and cause of the abuse or neglect; the identity and age of the person
115 responsible for the abuse or neglect; the names and conditions of other children
116 in the home, if any; the home environment and the relationship of the subject
117 child to the parents or other persons responsible for the child's care; any
118 indication of incidents of physical violence against any other household or family
119 member; and other pertinent data.

120 [8.] 9. When a report has been made by a person required to report under
121 section 210.115, the division shall contact the person who made such report
122 within forty-eight hours of the receipt of the report in order to ensure that full

123 information has been received and to obtain any additional information or
124 medical records, or both, that may be pertinent.

125 **[9.] 10.** Upon completion of the investigation, if the division suspects that
126 the report was made maliciously or for the purpose of harassment, the division
127 shall refer the report and any evidence of malice or harassment to the local
128 prosecuting or circuit attorney.

129 **[10.] 11.** Multidisciplinary teams shall be used whenever conducting the
130 investigation as determined by the division in conjunction with local law
131 enforcement. Multidisciplinary teams shall be used in providing protective or
132 preventive social services, including the services of law enforcement, a liaison of
133 the local public school, the juvenile officer, the juvenile court, and other agencies,
134 both public and private.

135 **[11.] 12.** For all family support team meetings involving an alleged
136 victim of child abuse or neglect, the parents, legal counsel for the parents, foster
137 parents, the legal guardian or custodian of the child, the guardian ad litem for
138 the child, and the volunteer advocate for the child shall be provided notice and
139 be permitted to attend all such meetings. Family members, other than alleged
140 perpetrators, or other community informal or formal service providers that
141 provide significant support to the child and other individuals may also be invited
142 at the discretion of the parents of the child. In addition, the parents, the legal
143 counsel for the parents, the legal guardian or custodian and the foster parents
144 may request that other individuals, other than alleged perpetrators, be permitted
145 to attend such team meetings. Once a person is provided notice of or attends
146 such team meetings, the division or the convenor of the meeting shall provide
147 such persons with notice of all such subsequent meetings involving the
148 child. Families may determine whether individuals invited at their discretion
149 shall continue to be invited.

150 **[12.] 13.** If the appropriate local division personnel determine after an
151 investigation has begun that completing an investigation is not appropriate, the
152 division shall conduct a family assessment and services approach. The division
153 shall provide written notification to local law enforcement prior to terminating
154 any investigative process. The reason for the termination of the investigative
155 process shall be documented in the record of the division and the written
156 notification submitted to local law enforcement. Such notification shall not
157 preclude nor prevent any investigation by law enforcement.

158 **[13.] 14.** If the appropriate local division personnel determines to use a

159 family assessment and services approach, the division shall:

160 (1) Assess any service needs of the family. The assessment of risk and
161 service needs shall be based on information gathered from the family and other
162 sources;

163 (2) Provide services which are voluntary and time-limited unless it is
164 determined by the division based on the assessment of risk that there will be a
165 high risk of abuse or neglect if the family refuses to accept the services. The
166 division shall identify services for families where it is determined that the child
167 is at high risk of future abuse or neglect. The division shall thoroughly document
168 in the record its attempt to provide voluntary services and the reasons these
169 services are important to reduce the risk of future abuse or neglect to the child.
170 If the family continues to refuse voluntary services or the child needs to be
171 protected, the division may commence an investigation;

172 (3) Commence an immediate investigation if at any time during the family
173 assessment and services approach the division determines that an investigation,
174 as delineated in sections 210.109 to 210.183, is required. The division staff who
175 have conducted the assessment may remain involved in the provision of services
176 to the child and family;

177 (4) Document at the time the case is closed, the outcome of the family
178 assessment and services approach, any service provided and the removal of risk
179 to the child, if it existed.

180 [14.] 15. Within thirty days of an oral report of abuse or neglect, the local
181 office shall update the information in the information system. The information
182 system shall contain, at a minimum, the determination made by the division as
183 a result of the investigation, identifying information on the subjects of the report,
184 those responsible for the care of the subject child and other relevant dispositional
185 information. The division shall complete all investigations within thirty days,
186 unless good cause for the failure to complete the investigation is documented in
187 the information system. If a child involved in a pending investigation dies, the
188 investigation shall remain open until the division's investigation surrounding the
189 death is completed. If the investigation is not completed within thirty days, the
190 information system shall be updated at regular intervals and upon the completion
191 of the investigation. The information in the information system shall be updated
192 to reflect any subsequent findings, including any changes to the findings based
193 on an administrative or judicial hearing on the matter.

194 [15.] 16. A person required to report under section 210.115 to the

195 division and any person making a report of child abuse or neglect made to the
196 division which is not made anonymously shall be informed by the division of his
197 or her right to obtain information concerning the disposition of his or her
198 report. Such person shall receive, from the local office, if requested, information
199 on the general disposition of his or her report. Such person may receive, if
200 requested, findings and information concerning the case. Such release of
201 information shall be at the discretion of the director based upon a review of the
202 reporter's ability to assist in protecting the child or the potential harm to the
203 child or other children within the family. The local office shall respond to the
204 request within forty-five days. The findings shall be made available to the
205 reporter within five days of the outcome of the investigation. If the report is
206 determined to be unsubstantiated, the reporter may request that the report be
207 referred by the division to the office of child advocate for children's protection and
208 services established in sections 37.700 to 37.730. Upon request by a reporter
209 under this subsection, the division shall refer an unsubstantiated report of child
210 abuse or neglect to the office of child advocate for children's protection and
211 services.

212 [16.] 17. The division shall provide to any individual who is not satisfied
213 with the results of an investigation information about the office of child advocate
214 and the services it may provide under sections 37.700 to 37.730.

215 [17.] 18. In any judicial proceeding involving the custody of a child the
216 fact that a report may have been made pursuant to sections 210.109 to 210.183
217 shall not be admissible. However:

218 (1) Nothing in this subsection shall prohibit the introduction of evidence
219 from independent sources to support the allegations that may have caused a
220 report to have been made; and

221 (2) The court may on its own motion, or shall if requested by a party to
222 the proceeding, make an inquiry not on the record with the children's division to
223 determine if such a report has been made. If a report has been made, the court
224 may stay the custody proceeding until the children's division completes its
225 investigation.

226 [18.] 19. In any judicial proceeding involving the custody of a child where
227 the court determines that the child is in need of services [pursuant to subdivision
228 (d)] **under paragraph (d) of subdivision (1)** of subsection 1 of section 211.031
229 and has taken jurisdiction, the child's parent, guardian or custodian shall not be
230 entered into the registry.

231 **[19.] 20.** The children's division is hereby granted the authority to
232 promulgate rules and regulations pursuant to the provisions of section 207.021
233 and chapter 536 to carry out the provisions of sections 210.109 to 210.183.

234 **[20.] 21.** Any rule or portion of a rule, as that term is defined in section
235 536.010, that is created under the authority delegated in this section shall
236 become effective only if it complies with and is subject to all of the provisions of
237 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
238 nonseverable and if any of the powers vested with the general assembly pursuant
239 to chapter 536 to review, to delay the effective date or to disapprove and annul
240 a rule are subsequently held unconstitutional, then the grant of rulemaking
241 authority and any rule proposed or adopted after August 28, 2000, shall be
242 invalid and void.

 210.211. 1. It shall be unlawful for any person to establish, maintain or
2 operate a child-care facility for children, or to advertise or hold himself or herself
3 out as being able to perform any of the services as defined in section 210.201,
4 without having in effect a written license granted by the department of health
5 and senior services; except that nothing in sections 210.203 to 210.245 shall apply
6 to:

7 (1) Any person who is caring for four or fewer children. For purposes of
8 this subdivision, children who are related by blood, marriage or adoption to such
9 person within the third degree shall not be considered in the total number of
10 children being cared for;

11 (2) Any person who has been duly appointed by a court of competent
12 jurisdiction the guardian of the person of the child or children, or the person who
13 has legal custody of the child or children;

14 (3) Any person who receives free of charge, and not as a business, for
15 periods not exceeding ninety consecutive days, as bona fide, occasional and
16 personal guests the child or children of personal friends of such person, and who
17 receives custody of no other unrelated child or children;

18 (4) Any graded boarding school, summer camp, hospital, sanitarium or
19 home which is conducted in good faith primarily to provide education, recreation,
20 medical treatment, or nursing or convalescent care for children;

21 (5) Any child-care facility maintained or operated under the exclusive
22 control of a religious organization. When a nonreligious organization, having as
23 its principal purpose the provision of child-care services, enters into an
24 arrangement with a religious organization for the maintenance or operation of a

25 child-care facility, the facility is not under the exclusive control of the religious
26 organization;

27 (6) Any residential facility or day program licensed by the department of
28 mental health pursuant to sections 630.705 to 630.760 which provides care,
29 treatment and habilitation exclusively to children who have a primary diagnosis
30 of mental disorder, mental illness, mental retardation or developmental disability,
31 as defined in section 630.005; and

32 (7) Any nursery school.

33 2. Notwithstanding the provisions of subsection 1 of this section, no
34 child-care facility shall be exempt from licensure if such facility receives any state
35 or federal funds for providing care for children, except for federal funds for those
36 programs which meet the requirements for participation in the Child and Adult
37 Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care
38 pursuant to sections 210.201 to 210.257 shall not be construed to be funds
39 received by a person or facility listed in subdivisions (1) and (5) of subsection 1
40 of this section.

41 **3. Any child care facility not exempt from licensure shall disclose**
42 **the licensure status of the facility to the parents or guardians of**
43 **children for which the facility provides care. No child care facility**
44 **exempt from licensure shall represent to any parent or guardian of**
45 **children for which the facility provides care that the facility is licensed**
46 **when such facility is in fact not licensed.**

210.245. 1. Any person who violates any provision of sections 210.201 to
2 210.245, or who for such person or for any other person makes materially false
3 statements in order to obtain a license or the renewal thereof pursuant to sections
4 210.201 to 210.245, shall be guilty of an infraction for the first offense and shall
5 be assessed a fine not to exceed two hundred dollars and shall be guilty of a class
6 A misdemeanor **and shall be assessed a fine of up to two hundred dollars**
7 **per day, not to exceed a total of ten thousand dollars** for subsequent
8 offenses. In case such guilty person is a corporation, association, institution or
9 society, the officers thereof who participate in such misdemeanor shall be subject
10 to the penalties provided by law.

11 2. If the department of health and senior services proposes to deny,
12 suspend, place on probation or revoke a license, the department of health and
13 senior services shall serve upon the applicant or licensee written notice of the
14 proposed action to be taken. The notice shall contain a statement of the type of

15 action proposed, the basis for it, the date the action will become effective, and a
16 statement that the applicant or licensee shall have thirty days to request in
17 writing a hearing before the administrative hearing commission and that such
18 request shall be made to the department of health and senior services. If no
19 written request for a hearing is received by the department of health and senior
20 services within thirty days of the delivery or mailing by certified mail of the
21 notice to the applicant or licensee, the proposed discipline shall take effect on the
22 thirty-first day after such delivery or mailing of the notice to the applicant or
23 licensee. If the applicant or licensee makes a written request for a hearing, the
24 department of health and senior services shall file a complaint with the
25 administrative hearing commission within ninety days of receipt of the request
26 for a hearing.

27 3. The department of health and senior services may issue letters of
28 censure or warning without formal notice or hearing. Additionally, the
29 department of health and senior services may place a licensee on probation
30 pursuant to chapter 621.

31 4. The department of health and senior services may suspend any license
32 simultaneously with the notice of the proposed action to be taken in subsection
33 2 of this section, if the department of health and senior services finds that there
34 is a threat of imminent bodily harm to the children in care. The notice of
35 suspension shall include the basis of the suspension and the appeal rights of the
36 licensee pursuant to this section. The licensee may appeal the decision to
37 suspend the license to the department of health and senior services. The appeal
38 shall be filed within ten days from the delivery or mailing by certified mail of the
39 notice of appeal. A hearing shall be conducted by the department of health and
40 senior services within ten days from the date the appeal is filed. The suspension
41 shall continue in effect until the conclusion of the proceedings, including review
42 thereof, unless sooner withdrawn by the department of health and senior services,
43 dissolved by a court of competent jurisdiction or stayed by the administrative
44 hearing commission. Any person aggrieved by a final decision of the department
45 made pursuant to this section shall be entitled to judicial review in accordance
46 with chapter 536.

47 5. In addition to initiating proceedings pursuant to subsection 1 of this
48 section, or in lieu thereof, the prosecuting attorney of the county where the
49 child-care facility is located may file suit for a preliminary and permanent order
50 overseeing or preventing the operation of a child-care facility for violating any

51 provision of sections 210.201 to 210.245. The order shall remain in force until
52 such a time as the court determines that the child-care facility is in substantial
53 compliance. If the prosecuting attorney refuses to act or fails to act after receipt
54 of notice from the department of health and senior services, the department of
55 health and senior services may request that the attorney general seek an
56 injunction of the operation of such child-care facility.

57 6. In cases of imminent bodily harm to children in the care of a child-care
58 facility, the department may file suit in the circuit court of the county in which
59 the child-care facility is located for injunctive relief, which may include removing
60 the children from the facility, overseeing the operation of the facility or closing
61 the facility.

**544.456. 1. This section shall be known and may be cited as "Sam
2 Pratt's Law".**

3 **2. In any case involving abuse, neglect, or death of a child, any**
4 **court with competent jurisdiction may impose as a condition of release**
5 **of a defendant under section 544.455 that such defendant be prohibited**
6 **from providing child care services for compensation pending final**
7 **disposition of the case. The court shall notify the department of health**
8 **and senior services and the department of social services when it**
9 **makes such a determination, as well as the final disposition of the case.**

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